

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ANDREW H. COHEN,

Defendant.

Adv. Pro. No. 10-04311 (SMB)

**ORDER DENYING MOTION TO INTERVENE  
OR TO PARTICIPATE AS AMICUS CURIAE**

On October 9, 2015, defendants listed on Appendix A attached hereto (collectively, “Proposed Intervenors”) moved to intervene as a matter of right or by permission pursuant to Federal Rule of Civil Procedure 24, as incorporated by Federal Rule of Bankruptcy Procedure 7024, or alternatively, to participate as *amicus curiae* (the “Motion to Intervene”) in this adversary proceeding commenced by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC

(“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated chapter 7 estate of Bernard L. Madoff.

On October 29, 2015, the Trustee filed a memorandum of law in opposition to the Motion to Intervene (ECF No. 65) (the “Opposition Brief”). On November 11, 2015, the Proposed Intervenors filed a reply brief in further support of their Motion to Intervene (ECF No. 69) (the “Reply Brief”).

On September 30, 2015, a hearing on the Motion to Intervene was held by the Honorable Stuart M. Bernstein (the “Hearing”). Prior to any decision on the Motion to Intervene, the Proposed Intervenors filed a memorandum of law on “value defense issues” on December 9, 2015 (ECF No. 73), which the Trustee addressed in a subsequent letter submitted to the Court on December 10, 2015 (ECF No. 77). The Proposed Intervenors submitted a letter response to the Court on that same day, December 10, 2015 (ECF No. 78).

On April 7, 2015, the Proposed Intervenors submitted a letter with supplemental authorities to the Court (ECF No. 84). On April 11, 2016, the Trustee submitted a letter response providing supplemental authority (ECF No. 85). The Proposed Intervenors filed a letter in response on April 15, 2016 (ECF No. 87).

The Court, having reviewed the Motion to Intervene, the Opposition Brief, the Reply Brief, the supplemental authorities and other submissions, and having heard the arguments of counsel at the Hearing, denied the Motion to Intervene for reasons set forth in its Memorandum Decision Denying Motion To Intervene Or To Participate As Amicus Curiae (the “Decision”), entered April 25, 2016 (ECF No. 89).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision, the Proposed Intervenor's Motion to Intervene, or to alternatively participate as *amicus curiae*, is hereby denied.

2. This Court shall retain jurisdiction over all matters relating to the enforcement, implementation, and interpretation of this Order.

Dated: New York, New York

/s/ STUART M. BERNSTEIN

April 28<sup>th</sup>, 2016

HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

| <b>APPENDIX A</b> |                      |   |                                 |
|-------------------|----------------------|---|---------------------------------|
|                   | <b>Adv. Pro. No.</b> | <b>Defendant(s)</b>   | <b>Counsel for Defendant(s)</b> |
| 1.                | 10-04342             | Picard v. Evenstad Revocable Trust u/a/d, May 2, 2000, et al. | Loeb & Loeb LLP                 |
| 2.                | 10-04933             | Picard v. Kenneth Evenstad Trust, et al.                      | Loeb & Loeb LLP                 |
| 3.                | 10-04512             | Picard v. Mark Evenstad Trust, et al.                         | Loeb & Loeb LLP                 |
| 4.                | 10-04952             | Picard v. MBE Preferred Ltd Partnership, et al.               | Loeb & Loeb LLP                 |
| 5.                | 10-04514             | Picard v. Serene Warren Trust, et al.                         | Loeb & Loeb LLP                 |
| 6.                | 10-04945             | Picard v. SEW Preferred Ltd. Partnership, et al.              | Loeb & Loeb LLP                 |
| 7.                | 10-04384             | Picard v. Lanx BM Investments, LLC, et al.                    | Baker & McKenzie LLP            |
| 8.                | 10-04387             | Picard v. James Lowrey, et al.                                | Baker & McKenzie LLP            |
| 9.                | 10-04488             | Picard v. South Ferry Building Co.                            | Baker & McKenzie LLP            |
| 10.               | 10-04350             | Picard v. South Ferry #2 LP, et al.                           | Baker & McKenzie LLP            |
| 11.               | 10-04374             | Picard v. ZWD Investments, LLC, et al.                        | Baker & McKenzie LLP            |
| 12.               | 10-04925             | Picard v. Alvin Gindel Revocable Trust, et al.                | Dentons LLP                     |
| 13.               | 10-05058             | Picard v. America-Israel Cultural Foundation                  | Dentons LLP                     |
| 14.               | 10-04401             | Picard v. BAM, L.P., et al.                                   | Dentons LLP                     |
| 15.               | 10-04415             | Picard v. Barbara Berson                                      | Dentons LLP                     |
| 16.               | 10-05028             | Picard v. Estate of Jack Shurman, et al.                      | Dentons LLP                     |
| 17.               | 10-05085             | Picard v. Eugene J. Ribakoff 2006 Trust, et al.               | Dentons LLP                     |
| 18.               | 10-04882             | Picard v. Laura E. Guggenheimer Cole                          | Dentons LLP                     |
| 19.               | 10-04672             | Picard v. Sidney Cole   | Dentons LLP                     |
| 20.               | 10-05424             | Picard v. The Frederia Ripley French Rev. Trust, et al.       | Dentons LLP                     |
| 21.               | 10-04357             | Picard v. James Greiff  | Dentons LLP                     |

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| 22. | 10-04861 | Picard v. Harold J. Hein                               | Dentons LLP |
| 23. | 10-05236 | Picard v. Toby T. Hobish, et al.                       | Dentons LLP |
| 24. | 10-04777 | Picard v. Ida Fishman Revocable Trust, et al.          | Dentons LLP |
| 25. | 10-04615 | Picard v. Joel I. Gordon Revocable Trust               | Dentons LLP |
| 26. | 10-05209 | Picard v. Lapin Children LLC                           | Dentons LLP |
| 27. | 10-05224 | Picard v. David R. Markin, et al.                      | Dentons LLP |
| 28. | 10-04921 | Picard v. Stanley Miller                               | Dentons LLP |
| 29. | 10-04510 | Picard v. The Murray Family Trust, et al.              | Dentons LLP |
| 30. | 10-05424 | Picard v. Neil Reger Profit Sharing Keogh, et al       | Dentons LLP |
| 31. | 10-04401 | Picard v. Rose Gindel Trust, et al.                    | Dentons LLP |
| 32. | 10-04702 | Picard v. S&L Partnership, et al                       | Dentons LLP |
| 33. | 10-04332 | Picard v. Barry Weisfeld                               | Dentons LLP |
| 34. | 10-04966 | Picard v. Gary Albert                                  | Milberg LLP |
| 35. | 10-04335 | Picard v. Aspen Fine Arts Co.                          | Milberg LLP |
| 36. | 10-04582 | Picard v. Gerald Blumenthal                            | Milberg LLP |
| 37. | 10-04576 | Picard v. Norton A. Eisenberg                          | Milberg LLP |
| 38. | 10-05398 | Picard v. Elbert R. Brown Trust, et al.                | Milberg LLP |
| 39. | 10-04978 | Picard v. The Estate of Ira S. Rosenberg, et al.       | Milberg LLP |
| 40. | 10-04724 | Picard v. P. Charles Gabriele                          | Milberg LLP |
| 41. | 10-04946 | Picard v. Stephen R. Goldenberg                        | Milberg LLP |
| 42. | 10-04725 | Picard v. Ruth E. Goldstein                            | Milberg LLP |
| 43. | 10-04712 | Picard v. The Joseph S. Popkin Revocable Trust, et al. | Milberg LLP |
| 44. | 10-05069 | Picard v. Potamkin Family Foundation I, Inc.           | Milberg LLP |

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| 45. | 10-04723 | Picard v. Mitchell Ross                                | Milberg LLP       |
| 46. | 10-05136 | Picard v. Richard Roth                                 | Milberg LLP       |
| 47. | 10-04540 | Picard v. Jonathan Sobin                               | Milberg LLP       |
| 48. | 10-04951 | Picard v. Harold A. Thau                               | Milberg LLP       |
| 49. | 10-04741 | Picard v. The William M. Woessner Family Trust, et al. | Milberg LLP       |
| 50. | 10-04343 | Picard v. Patrice M. Auld, et al.                      | Pryor Cashman LLP |
| 51. | 10-05168 | Picard v. Bernard Marden Profit Sharing Plan, et al.   | Pryor Cashman LLP |
| 52. | 10-05439 | Picard v. Avram J. Goldberg, et al.                    | Pryor Cashman LLP |
| 53. | 10-05118 | Picard v. Charlotte Marden Irrevocable Trust, et al.   | Pryor Cashman LLP |
| 54. | 10-04341 | Picard v. James P. Marden, et al.                      | Pryor Cashman LLP |
| 55. | 10-04348 | Picard v. Marden Family Limited Partnership, et al.    | Pryor Cashman LLP |
| 56. | 10-05194 | Picard v. Murray Pergament Trust, et al.               | Pryor Cashman LLP |
| 57. | 10-04375 | Picard v. Stanley Plesent                              | Pryor Cashman LLP |